

Message Text

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43

ACTION ARA-10

INFO OCT-01 ISO-00 A-01 PER-03 OPR-02 ARAE-00 CPR-01

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P R 281230Z MAR 75

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC PRIORITY 8360

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

UNCLAS BRASILIA 2317

E.O. 11652: N/A

TAGS: AFSP, BR

SUBJECT: POSSIBLE WAIVER OF IMMUNITY BY DEPENDENTS

REF: (A) CA 3745, AUG 11, 1971

(B) 3 FAM 620, TITLE 22 - FOREIGN RELATIONS, PART 10 - EMPLOYEE

RESPONSIBILITIES AND CONDUCT, SEC 10.735.206(E)

(C) 2 FAM 221.5 - WAIVER OF IMMUNITY

1. POST HAS BEEN INFORMED BY OFFICE OF PROTOCOL, GOB, THAT IN ORDER FOR DEPENDENTS OF AMERICAN EMPLOYEES TO WORK FOR COMPENSATION WITHIN THE ECONOMY OF BRAZIL IT IS NECESSARY TO CHANGE THE ORIGINAL VISA IN THEIR PASSPORT TO A REGULAR VISA AND THE DEPENDENT WOULD LOSE HIS/HER DIPLOMATIC STATUS. THE DEPENDENT WOULD, IN ADDITION, BE REQUIRED TO PAY BRAZILIAN INCOME TAX AS ANY OTHER EMPLOYEE IN BRAZIL.

2. WE HAVE TWO REQUESTS OF DEPENDENTS TO TEACH SCHOOL IN SAO PAULO AND RIO RESPECTIVELY. IN ONE INSTANCE, THE DEPENDENT, WHO POSSESSES A HIGH LEVEL OF PROFESSIONAL BACKGROUND AND EXPERIENCE IN THE AREA OF SPECIAL EDUCATION DEALING WITH CHILDREN HAVING LEARNING AND BEHAVIORAL PROBLEMS, HAS BEEN APPROACHED BY AN INSTITUTION UNDER THE AUSPICES OF THE GOB TO WORK WITH THAT ORGANIZATION. THE SECOND CASE INVOLVES A HIGHLY-QUALIFIED TEACHER WHOSE SERVICES ARE URGENTLY SOUGHT BY THE AMERICAN SCHOOL IN SAO PAULO. THE AMERICAN SCHOOL, BRASILIA, ALSO SEEKS DEPENDENTS TO

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FILL UNFORESEEN STAFFING GAPS.

3. REFERENCE (A) ABOVE ENCOURAGES POSTS TO GIVE FAVORABLE CONSIDERATION TO EMPLOYMENT OF DEPENDENTS ON THE LOCAL ECONOMY WHICH MIGHT BENEFIT THE IMAGE OF THE U.S., AND REFERENCE (B) ABOVE PROVIDES THE LEGAL AUTHORITY. HOWEVER, IN VIEW OF THIS RECENT INFORMATION FROM THE OFFICE OF PROTOCOL, WE CONSIDER THAT CHANGE OF VISA WOULD CONSTITUTE A WAIVER OF IMMUNITY WHICH, AS PROVIDED BY 2 FAM 221.5 (REFERENCE (C) ABOVE), MAY BE GRANTED ONLY BY THE DEPT. THE EMBASSY WARMLY ENDORSES THE DESIRE OF DEPENDENTS TO MAKE THEIR SKILLS AVAILABLE IN THESE INSTITUTIONS WHICH HAVE A PRIMARY POLICY OBJECTIVE OF PROVIDING DEMONSTRATION FACILITIES OF U.S. EDUCATIONAL TECHNIQUES. SOME DEPENDENTS HAVE INDICATED THEIR WILLINGNESS TO ACCEPT A CHANGE IN STATUS AND ALL HAVE READILY AGREED TO PAY BRAZILIAN INCOME TAXES ON THE REMUNERATION RECEIVED.

4. THE DEPARTMENT IS REQUESTED TO CONSIDER FAVORABLY THE WAIVER OF IMMUNITY, IF SUCH IS DEEMED TO BE INVOLVED, IN THE LARGER INTEREST OF PERMITTING QUALIFIED DEPENDENTS TO MAKE THEIR SKILLS AVAILABLE IN THE FIELDS OF TEACHING AND NURSING.
CRIMMINS

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